HON'BLE SRI JUSTICE R.SUBHASH REDDY

WRIT PETITION NO : 34121 of 1998

Dated 4th April, 2007

Between

C.Ramakrishna Reddy

…Petitioner

and
State of AP, rep. By its Secretary,
Finance & Planning Department, Secretariat,
Hyderabad, and, others

…Respondents.

THE HON'BLE MR JUSTICE R.SUBHASH REDDY

WRIT PETITION NO : 34121 of 1998

ORDER:

This Writ Petition has been filed seeking Writ of Mandamus to declare the action of the respondents in implementing G.O.Ms.No. 35, dated 27-2-1997 for fixation of rent for the building owned by the petitioner and occupied by the respondents 2 and 3 as illegal and arbitrary, and, for consequential direction to the respondents to fix the rent in accordance with the norms, which were existing as on the date of executing the lease deed.

The petitioner is the owner of the building bearing No. 2-4-8/7, situated at Meena Bazar in Bhongir of Nalgonda District. The petitioner had submitted a consent letter to let out his premises to the respondents 2 and 3 and subsequently lease agreement was entered

into on 10-06-1996. With regard to rent, it was agreed by the parties that the monthly rent would be as fixed by the Roads and Buildings Department. Subsequently, the Assistant Executive Engineer has prepared pro-forma for rent calculation and recommended the monthly rent at Rs.6,800/-; whereas the demand of the owner of the building was at Rs.8,000/- per month.

It is the grievance of the petitioner that as on the date of the execution of the lease deed, instructions dated 31-8-1967 issued in Circular No.Ts/Rents/46949/65-45 were in force and the norms notified in G.O.Ms. No. 35, dated 27-2-1997 could not have been applied for fixation of the rent as much as the lease deed was executed on 10-6-1996. Precisely, it is the case of the petitioner that the norms in G.O.Ms.No. 35, dated 27-2-1997 cannot be retrospectively given effect to for fixation of the rent for the petitioner's building, which was let out, by executing lease deed on 10-6-1996.

Counter affidavit is filed by the respondents stating that the building in question was occupied by the respondents 2 and 3 on 10-6-1996 and forwarded the consent of the petitioner to the Executive Engineer, R & B Department, Nalgonda, who had issued rent fixation certificate, fixing the rent at Rs.3,260/- per month with effect from 10-6-1996. Based on the same, proposals were sent to the Commissioner of Commercial Taxes, who had sanctioned the rent at Rs.3,260/- per month. Further, in the counter affidavit it is categorically stated that the rent was fixed in accordance with the instructions issued in Circular No.Ts/Rents/46949/65, dated 31-8-1967, but not in accordance with the norms notified in G.O.Ms.No. 35, dated 27-2-1997.

In this Writ Petition, it is submitted by the learned Counsel for the

petitioner that as much as the respondents themselves have recommended the monthly rent at Rs.6,800/-, they ought not to have fixed the rent at Rs.3,260/- per month by applying the norms in G.O.Ms.No. 35, dated 27-2-1997. In the lease deed, the rent was not fixed. It was agreed by the petitioner that rent is payable as fixed by the R & B Department authorities. Though in the pro-forma for rent calculation, the Assistant Executive Engineer has recommended the rent at Rs.6,800/- per month, but however, there is no fixation of such rent as claimed by the petitioner. The Executive Engineer, R&B Division had issued rent fixation certificate fixing the rent at Rs.3,260/- per month. Further, in the counter affidavit, it is stated that the rent was fixed as per the norms notified in the circular dated 31-8-1967, but not in accordance with G.O.Ms.No. 35, dated 27-2-1997. As the respondents had not fixed the rent basing on the G.O.Ms.No. 35, dated 27-2-1997, it cannot be said that the said GO was implemented retrospectively to the petitioner for fixation of rent. The respondents have fixed the rent based on the circular instructions in force as on the date of executing the lease deed dated 10-6-1996. In that view of the matter, I do not find any valid ground for grant of directions as prayed for.

The Writ Petition is devoid of merits and is accordingly dismissed. No order as to costs.

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JUSTICE R. SUBHASH REDDY

DATE: 04-04-2007.
Msnr.